

REMARKS

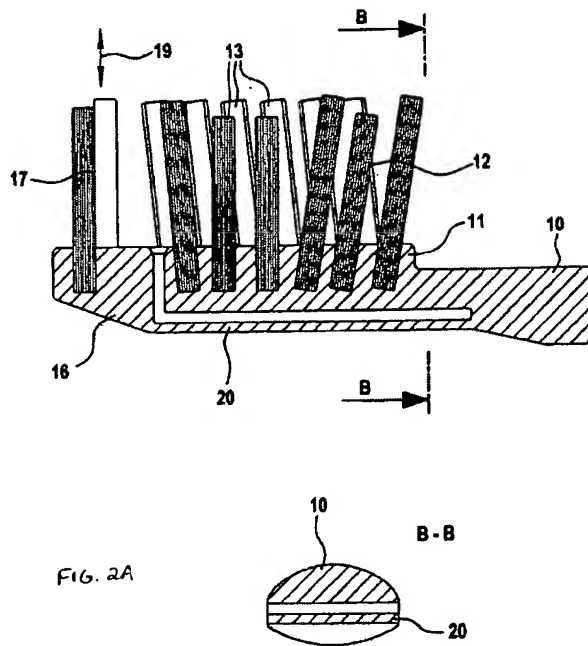
The office action of June 1, 2005 has been reviewed and these remarks are responsive to same. Claims 1-19 are pending. Claims 1-5 and 8-19 stand rejected. Claims 11 and 19 have been objected to because of informalities. Claims 6 and 7 were previously withdrawn from consideration. Applicants herein amend claims 11 and 19. Applicants also amend the abstract to correct typographic errors. No new matter is introduced.

In response to the informalities objection to claim 11, Applicants have amended claim 11 to change "oscillates or rotates" to "is driven by said drive assembly." In response to the informalities objection to claim 19, Applicants have amended claim 19 to change "member" to "section."

The office action rejected claims 1-4, 11-15 and 19 under 35 U.S.C. § 102(a) based on WO 02/05725 (Fritsch et al., hereinafter "Fritsch").¹ However, Fritsch fails to teach at least one feature of claim 1. In particular, Fritsch does not teach a second section which remains "static when said first section moves and no other external forces are applied to said second section." In finding this feature of claim 1 in Fritsch, the office action refers to Figure 2 and paragraphs [0042] and [0043]. This Figure and these paragraphs are reproduced below.

¹ Notably, Fritsch is the German language publication of PCT/EP01/07615. The office action relies upon U.S. Patent Publication No. 2003/0126698, which purports to be a continuation of PCT/EP01/07615, as a translation of Fritsch. So as to be consistent with the discussion of Fritsch in the office action, Applicants' references to Fritsch will refer to paragraphs and drawing figures of publication 2003/0126698. Applicants note that publication 2003/0126698 is not itself prior art to the present application. For purposes of the present remarks only, Applicants will assume that Publication 2003/0126698 is an accurate translation of WO 02/05725. However, Applicants do not waive the right to later challenge the accuracy of that translation (and thus, what is taught by WO 02/05725).

Fig. 2



[0042] In contrast to FIG. 1, however, in the case of FIG. 2, the spring element is formed by a web 20, which does not constitute an additional component. The web 20 is connected integrally to the carrier tube 10 and the additional bristle part 16. By virtue of selecting an appropriate material for the web 20, in particular an appropriate plastic, and by virtue of corresponding adaptation of the dimensions, in particular of the thickness of the web 20, the web 20 may be assigned resilient properties which correspond to the resilient properties of the spring element from FIG. 1.

[0043] Specific guidance of the web 20 and/or the additional bristle part 16 is not necessary in the case of FIG. 2. This guidance is already achieved by the single-piece configuration of the web 20, the additional bristle part 16 and the carrier tube 10.

The office action appears to rely on the portion of paragraph [0042] which refers to selecting an appropriate material (in particular, an appropriate plastic) and on the portion of paragraph [0043] which states that "specific guidance" of web 20 and/or bristle part 16 is not necessary. Specifically, the office action states "... that although various embodiments of [Fritsch] teach that the additional bristle part 16 (or 'second section') moves as a result of a resonance effect when the electrical toothbrush is turned on, the particular embodiment of Fig. 2, as explained above, teaches a second section can remain static when said first section moves and no other external forces are applied to said second section."

Fritsch does not teach that the bristle part 16 in the Fig. 2 embodiment remains static when bristle part 11 moves and no other external forces are applied to bristle part 16. Instead, Fritsch clearly indicates that bristle part 16 in Fig. 2 moves when bristle part 11 moves. Fritsch paragraph [0041] makes clear that "FIG. 2 illustrates a second exemplary embodiment of an electrically driven toothbrush, which largely corresponds to the first exemplary embodiment from FIG. 1[;] [t]he same components are thus indicated by the same designations." In paragraph [0031], Fritsch explains that "[i]n FIG. 1, the carrier tube 10 is made to execute an alternating pivoting movement about its longitudinal axis by a drive." As can be seen in both

FIG. 1 and FIG. 2, "bristle part 16" and "bristle part 11" are both connected to "carrier tube 10." Any movement of carrier tube 10 will thus cause bristle part 11 and bristle part 16 to move.

The "selecting ... an appropriate plastic" portion of Fritsch does not teach forming "web 20" (of the Fritsch Fig. 2 embodiment) so that bristle part 16 remains static while bristle part 11 is moving and no other external forces are applied to bristle part 16. Instead, Fritsch clearly indicates that web 20 should be constructed so as to cause resonant movement of bristle part 16. Paragraph [0042] states that "[b]y virtue of selecting an appropriate material for the web 20, in particular an appropriate plastic, and by virtue of corresponding adaptation of the dimensions, in particular of the thickness of the web 20, the web 20 may be assigned resilient properties which correspond to the resilient properties of the spring element from FIG. 1" (emphasis added). The "resilient properties of the spring element from FIG. 1" are discussed in paragraph [0036], where Fritsch explains how that "spring element" is to function:

The dimensions of the spring element 15 of the additional bristle part 16 and the spring constant of the spring element 15 are such that, when the electrically driven toothbrush is switched on, a resonance effect is produced. This means that, in a switched-on state, the additional bristle part 16 is made to execute a resonance movement on the spring element 15, the frequency of the resonance movement corresponding approximately to a resonant frequency of the electric drive.

There is no suggestion in Fritsch that web 20 should be formed in any other manner. Perhaps most tellingly, arrow 19 in Figure 2, which is identical to arrow 19 in Figure 1, shows the direction in which bristle part 16 moves. See paragraphs [0035] (movement direction of bristle part 16 indicated by arrow 19 in Fig. 1) and [0041] (same components in Figs. 1 and 2 indicated with the same designations).

The portion of Fritsch paragraph [0043] stating that "specific guidance" is not needed for web 20 or bristle part 16 similarly fails to teach that bristle part 16 remains static while bristle part 11 is moving. "Guidance" refers to ensuring that bristle part 16 and its corresponding spring element only move in the "bristle direction" (i.e., as shown by arrow 19). As explained at Fritsch paragraph [0035] for the embodiment of Fig. 1, and as seen in Fig. 1B, spring element 15 is "guided" by side walls 18. Similar "specific" guidance is not necessary in the embodiment of Figs. 2 and 2B, as "the spring element is formed by a web 20, which does not constitute an

additional component." Paragraph [0042]. The guidance "is already achieved [i.e., guidance still occurs] by the single-piece configuration of the web 20, the additional bristle part 16 and the carrier tube 10." Paragraph [0043](emphasis added).

In short, there is nothing in Fritsch that describes (or even suggests) a second section as recited by claim 1. Accordingly, claim 1 is allowable. Claims 2-4 and 11-15 depend from claim 1, and are thus allowable for the same reason as claim 1.

The office action rejected claims 5, 8-10 and 17 under 35 U.S.C. § 103 based on Fritsch. Because these claims all depend from claim 1, they are also allowable for at least the reason set forth above regarding claim 1.

The office action rejected claim 16 under 35 U.S.C. § 103 based on Fritsch in view of U.S. Publication No. 2003/0196283 (Eliav et al.). Claim 16 depends from claim 1. Even if the combination of Fritsch and Eliav were proper (which Applicants do not concede), it does not teach a second section as recited in claim 1. In particular, a Fritsch/Eliav combination does not teach a second section displaced from a first section and hingedly connected to the head at a first end opposite the first section, which is otherwise free of a connection with a remainder of the head, and which remains static when the first section moves and no other external forces are applied to the second section. Accordingly, claim 16 is also allowable for at least the same reason as claim 1.

The office action rejected claim 18 under 35 U.S.C. § 103 based on Fritsch in view of U.S. Patent 6,000,083 (Blaustein). Claim 18 also depends from claim 1. Even if the Fritsch/Blaustein combination were proper (which Applicants do not concede), it similarly fails to teach a second section as recited by claim 1, and is thus is allowable for at least the same reason as claim 1.

As indicated above, the office action rejected claim 19 under 35 U.S.C. § 102(a) based on Fritsch. The office action separately rejected claim 19 under § 102(a) based on U.S. Publication No. 2001/0020314 (Calabrese). Claim 19 as amended recites that the second movable section includes a plurality of bristles distributed along a substantial portion of the length between first

and second ends. Neither Fritsch nor Calabrese teaches this feature, and claim 19 is therefore allowable.²


It is respectfully submitted that this application is now in condition for allowance. Should the Examiner believe that anything further is desirable in order to place the application in even better form for allowance, the Examiner is respectfully urged to contact Applicants' undersigned representative at the below-listed number.

Respectfully submitted,

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² So as to improve readability of claim 19, Applicants have also added line breaks and indentations in several locations.